

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 949 - HB 1494**

February 10, 2023

**SUMMARY OF BILL:** Requires utility providers to refund, reimburse, or provide rebates to customers who experience an extended interruption or loss, or a permanent loss, of a vital utility service within six months of the day the utility received a claim for refund, reimbursement, or rebate.

Requires a utility provider to: (1) implement a claim filing system that may accept a claim electronically or in person, and (2) provide notice to its customers about the claims filing system within five days following an interruption of a vital utility service as well as in the next billing invoice.

Authorizes a customer to bring a civil action against a utility that violates the act within one year of receiving such notice. Provides that if a court finds that a utility has committed a violation, it may award the customer compensatory damages, prejudgment interest, reasonable attorneys' fees, and other legal or equitable relief.

**FISCAL IMPACT:**

**Other Fiscal Impact – Due to multiple unknown factors, the extent and timing of any recurring mandatory decrease in local revenue or increase in local foregone revenue, or mandatory increase in local expenditures cannot be determined.\***

Assumptions:

- Per the proposed legislation, a utility includes a cooperative and a county-owned or municipality-owned utility that provides electric, natural gas, or water and wastewater services to the public. Public utilities, as defined by Tenn. Code Ann. § 65-4-101(6)(A), do not include state or locally owned utilities, but only to the extent that the locally-owned entity distributes natural gas to retail customers within the municipal boundaries or urban growth boundaries of a Tennessee city or town adjoining such bordering state.
- A utility would be required to create a claims system in order to provide a refund, reimbursement, or rebate to a customer who experiences an extended interruption or loss of a vital utility service that was the direct result of the utility's:
  - Failure to maintain, repair, or secure its network, equipment or property;
  - Negligence or gross negligence in maintaining, repairing, or securing its network, equipment, or property, or in providing service; or

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- Willful or intentional conduct that led to the loss or interruption of service.
- Implementation of a claims system to process refunds, reimbursements, or rebates will result in a mandatory, one-time increase to local expenditures. Costs to each utility will vary based on the extent and timing of any contracting services to create a claims system and the relative size of each utility's service area.
- A precise, mandatory one-time increase to local expenditures cannot reasonably be determined, though the annual cost of such a claims system is estimated to be not significant.
- A refund or reimbursement provided to a customer would represent a recurring decrease in local revenue to a utility, while a rebate would represent a recurring increase in foregone revenue.
- However, neither the number of instances of a customer experiencing extended interruption or loss of a vital utility service, nor the amount of refund, reimbursement, or rebate that would be owed a customer can be reasonably estimated; therefore, the extent and timing of any mandatory, recurring decrease to local revenue or recurring increase in foregone revenue cannot be determined.
- In the event that a customer brings a successful civil action against a utility, the utility may be responsible for compensatory damages, prejudgment interest, reasonable attorneys' fees, and other legal or equitable relief. The cost of any future litigation and judgments is unknown and, therefore, any mandatory increase to local government expenditures cannot be reasonably determined.
- Any increase in the caseloads of trial courts as a result of the legislation is assumed to be not significant. Any fiscal impact to the courts can be absorbed within existing resources and is estimated to be not significant.

## **IMPACT TO COMMERCE:**

**Other Commerce Impact – Due to multiple unknown factors, a precise impact to recurring business and cooperative revenue and expenditures cannot be determined.**

### **Assumptions:**

- Cooperatives are nonprofit, non-governmental entities that are authorized to provide community utility services within the cooperative's service area; any fiscal impact to state or local government is not significant.
- A cooperative and public utility would be required to create a claims system in order to provide a refund, reimbursement, or rebate to a customer who experiences an extended interruption or loss of a vital utility service; this would result in a one-time increase to cooperative and business expenditures.
- Costs to cooperatives and public utilities will vary based on the extent and timing of any contracting services to create a claims system and the relative size of the applicable service area.

- A precise, one-time increase to cooperative and business expenditures cannot reasonably be determined, though the annual cost of such a claims system is estimated to be not significant.
- A refund or reimbursement provided to a customer would represent a recurring decrease in revenue to cooperatives and public utilities, while a rebate would represent a recurring increase to foregone revenue.
- The number of instances of a customer losing a vital utility service and the amount of payment that would be owed cannot be reasonably estimated; therefore, the extent and timing of any recurring decrease to cooperative or business revenue or recurring increase to foregone cooperative or business revenue cannot be determined.
- In the event that a customer brings a successful civil action against a cooperative or public utility, such entity may be responsible for compensatory damages, prejudgment interest, reasonable attorneys' fees, and other legal or equitable relief. The cost of any future litigation and judgments is unknown and, therefore, any increase to cooperative or business expenditures cannot be reasonably determined.
- The proposed legislation is not expected to have a significant impact on jobs in Tennessee.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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